THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.3237 OF 2004

24.08.2006

Between:

Netala Anasuya, W/o.late Pullaiah

… Petitioner

AND

The Mandal Revenue Officer, Gannavaram,
Krishna District

… Respondent

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.3237 OF 2004

ORDER:

The writ petition is filed seeking a writ of Mandamus declaring the action of the respondent, namely, the Mandal Revenue Officer, Gannavaram (MRO), in threatening to dispossess the petitioner even while the representation made by her for grant of patta for the land admeasuring Acs.0.43 in R.S.No.5 situated at Kesarapalli Village of Gannavaram Mandal in Krishna District is pending before the respondent. Though the interlocutory applications are listed, the matter was heard finally and is being disposed of by this order.

It is the case of the petitioner that her family members are absolute owners of the land admeasuring Acs.0.43 in R.S.No.5 situated at Kesarapalli Village of Gannavaram Mandal in Krishna District, out of total extent of Acs.15.57. The land was situated outside the premises of Aerodrome at Gannavaram and was classified as unassessed waste. Netala Appalaswamy, petitioner's father-in-law and six others encroached the land and made the land fit for cultivation. The Tahsildar of Gannavaram subsequently passed orders of eviction, aggrieved by which, all of them filed appeals before the District Collector, Krishna District, who by proceedings dated 14.11.1956 held the encroachment unobjectionable and allowed the appeals. After the death of their predecessors, the petitioner and others have been in possession of the land. They also approached the respondent on 19.1.2004 and made representation for grant of patta. Though the representation is still pending, the respondent is trying to evict the petitioner, aggrieved by which, the present writ petition is filed.

A counter affidavit is filed by the MRO denying the petition averments. It is stated that the proceedings of the District Collector do not confirm the possession of the petitioner, that Mandal Parishad Primary School was constructed in the land situated in R.S.No.5, and that there is also a proposal to allot the land to homeless people belong to weaker sections. It is further alleged that the petitioner has not paid any land revenue and, therefore, she is not entitled to patta.

The contention that the petitioner is an encroacher and is in possession of the land is specifically denied. Though the counter affidavit is filed on 02.7.2005 along with vacate petition, no reply affidavit is filed till today. Therefore, it can be held that the counter averments are unrebutted.

Learned Counsel for the petitioner placed strong reliance on the proceedings of the District Collector in D.Dis.No.15540/56 dated 14.11.1956 (See paragraph 3 of the writ affidavit). However, a copy of the said proceedings is not annexed to the writ petition. A typed copy of the proceedings in D.Dis.No.16640/56 dated 14.11.1956 is annexed. A perusal of the same does not support the contention of the petitioner that after death of Netala Appalaswamy, his son Pullaiah was in possession and thereafter the petitioner was in possession. No contemporaneous documents whatsoever are annexed in support of the contention that the petitioner is in continuous possession for forty (40) years. Secondly, a categorical averment is made that Mandal Parishad Primary School was constructed in the land and that there is a proposal to allot the remaining land to landless and poor persons belong to weaker sections. This averment in the counter remains uncontroverted and therefore this Court believes the version of the respondent. When the petitioner is not in possession of the land, there cannot be threat of dispossession nor necessity arises for evicting the petitioner from the land. However, if the petitioner is a landless and poor person, she may make an application to the respondent for allotment of any other land fit for cultivation. In this writ petition no relief can be granted to the petitioner.

The writ petition is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

August 24, 2006
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